

State Office of Administrative Hearings



Cathleen Parsley
Chief Administrative Law Judge

March 9, 2011

Les Trobman, General Counsel
Texas Commission on Environmental Quality
P.O. Box 13087
Austin Texas 78711-3087

Re: SOAH Docket No. 582-10-3857; TCEQ Docket No. 2009-1764-MSW-E; In Re:
Executive Director of the Texas Commission on Environmental Quality, Petitioner v.
Joabert Development Company, Respondent

Dear Mr. Trobman:

The Executive Director (ED) and Respondent Joabert Development Company filed exceptions to the Proposal for Decision issued in this case. The ED filed a response to Respondent's exceptions, and Respondent filed a reply to the ED's response.

The ED's exceptions concern typographical or other technical corrections, and I have no objection to those corrections.

Respondent's exceptions concern the appropriate definition of "suffer," as used in 30 TEX. ADMIN. CODE § 330.15(c). That rule provides: "Except as otherwise authorized by this chapter, a person may not cause, suffer, allow, or permit the dumping or disposal of MSW without the written authorization of the commission." After considering the Respondent's exceptions, the ED's response, and Respondent's reply, I continue to find that the definition of "suffer" used in the PFD is appropriate in the context of this rule. Therefore, I do not find that Respondent's exceptions support any change to the PFD or to the proposed order.

Please let me know if you need any additional information.

Sincerely,

A handwritten signature in black ink that reads "Thomas H. Walston".

Thomas H. Walston
Administrative Law Judge

THW:nl
cc: Mailing List

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STYLE/CASE: JOABERT DEVELOPMENT COMPANY
SOAH DOCKET NUMBER: 582-10-3857
REFERRING AGENCY CASE: 2009-1764-MSW-E

**STATE OFFICE OF ADMINISTRATIVE
HEARINGS**

**ADMINISTRATIVE LAW JUDGE
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